

4/20/09 427

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.: 09/647,028 : Confirmation No.: 3814
Applicant: Kevin T. Whitley et al. : Group Art Unit: 2635
Filed: May 29, 2002 : Examiner: Timothy Edwards
For: WIRELESS TELEMETRY METHODS AND SYSTEMS FOR
COMMUNICATING WITH OR CONTROLLING INTELLIGENT
DEVICES

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO DECISION ON PETITION

Applicants respectfully request reconsideration of the Petition to Revive filed February 27, 2009, which was dismissed on April 8, 2009. In the Decision on Petition, the Petitions Examiner noted the long time period from the date of abandonment on May 26, 2004 to the filing of the Petition to Revive on February 27, 2009. The delay was caused by virtue of the Notice of Allowance and the Notice of Abandonment being mailed to an address unrelated to the Applicant or it's counsel.

As of September 29, 2003, the correspondence address for this application was Thomas, Kayden, Horstemeyer and Risley in Atlanta, Georgia. On December 16, 2003, Cantor Colburn LLP filed a Revocation of Power of Attorney and Change of Correspondence address to set the correspondence address to the address associated with customer number 36192. On December 19, 2003, the undersigned filed a response to an outstanding office action.

The undersigned did not become aware of the abandonment until January 2009, when notified by the client of the abandonment. Upon accessing PAIR, it was revealed that the mailing address was to an entity in Orlando, Florida. The undersigned believes that some error occurred at the PTO in changing the correspondence address for this file to customer number 36192. It is believed that the Notice of Allowance mailed February 25, 2004 and the

Notice of Abandonment mailed July 2, 2004 were sent to Orlando, Florida to an entity unrelated to the Applicant, Cantor Colburn LLP or Thomas, Kayden, Horstemeyer and Risley. As there is no image of the Notice of Allowance mailed February 25, 2004 and the Notice of Abandonment mailed July 2, 2004 on PAIR, it is impossible for the undersigned to confirm where these documents were mailed.

The delay in discovering the abandonment was due to the fact that the Notice of Abandonment was never communicated to anyone associated with the prosecution of this application. As a response was filed to the Office Action mailed September 29, 2003, the undersigned expected that the PTO would issue the next communication to the Cantor Colburn LLP. If the Notice of Allowance had been sent to Thomas, Kayden, Horstemeyer and Risley, then that firm would have forwarded the notice to Cantor Colburn LLP for processing, as they have with prior communications from the PTO. In this case, due to some error, the Notice of Allowance mailed February 25, 2004 and the Notice of Abandonment mailed July 2, 2004 were sent to an individual unrelated to prosecution of this application. There was no way Applicants or their representatives could have know about the Notice of Allowance mailed February 25, 2004 and the Notice of Abandonment mailed July 2, 2004, as they were not mailed any entity related to the prosecution of this case.

In view of the foregoing, petitioner requests that the Petition to Revive be granted, that the issue fee submitted February 27, 2009 be applied to this application, and the application proceed to grant.

If there are any charges with respect to this response or otherwise, please charge them to Deposit Account 06-1130.

Respectfully submitted,

By: 

David A. Fox
Registration No. 38,807
CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford, CT 06103-3207
Telephone (860) 286-2929
Facsimile (860) 286-0115
Customer No. 36192

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